

REMARKS

Claims 1-34 are present in the above-captioned application and have been subjected to an election under 35 U.S.C. § 121. Specifically, the Official Action avers that the following inventions are present in the claims:

Group I, Claims 1-29, 33, and 34, drawn to a ligating apparatus, classified in class 606, subclass 139; and

Group II, claims 30-32, drawn to a twined wire, classified in class 57, subclass 200.

It is the Examiner's position that the inventions listed as Groups I and II are distinct from each other.

Furthermore, the Official Action avers that the following patentably distinct species of the claimed invention are present in the claims:

Species I, characterized by Figure 6;

Species II, characterized by Figure 7;

Species III, characterized by Figure 9;

Species IV, characterized by Figure 10;

Species V, characterized by Figure 11;

Species VI, characterized by Figure 12;

Species VII, characterized by Figure 15;

Species VIII, characterized by Figure 16;

Species IX, characterized by Figure 18;

Species X, characterized by Figure 19;

Species XI, characterized by Figure 20;

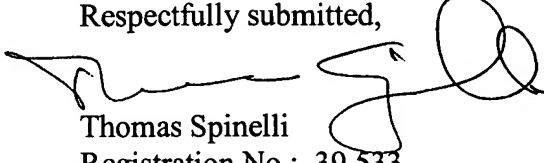
Species XII, characterized by Figure 21;
Species XIII, characterized by Figure 22;
Species XIV, characterized by Figure 23;
Species XV, characterized by Figure 24;
Species XVI, characterized by Figure 25;
Species XVII, characterized by Figure 26;
Species XVIII, characterized by Figure 27; and
Species XIX, characterized by Figure 28.

It is also the Examiner's position that the species listed as Species I-XIX are patentably distinct from each other.

In response to the Examiner's requirements for restriction and species election, Applicants elect to prosecute the subject matter of Group I, i.e., claims 1-29, 33 and 34 and Species XIII, readable on Figures 22A-22C and on claims 1, 5, 6, 10, 11, 15-19, and 21-24. However, Applicant reserves the right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter in this application.

In the Restriction Requirement, the Examiner argues that no claims are generic. Applicants respectfully disagree and submit that claim 1 is generic since it encompasses all of the identified species. Applicants respectfully request an indication that claim 1 is generic in any subsequent Official Action or Notice of Allowance.

In view of the foregoing, an examination on the merits of the elected claims, at an early date, is earnestly solicited.

Respectfully submitted,

Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm/dg